INVOLUNTARY BANKRUPTCY IMPROVEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1529) to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases.

The Clerk read as follows:

H.R. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Involuntary Bankruptcy Improvement Act of 2003''.

SEC. 2. AMENDMENT.

Section 303 of title 11, United States Code, is amended by adding at the end the following:

''(*l*)(1) If—

''(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

''(B) the debtor is an individual; and

''(C) the court dismisses such petition;

the court, upon motion of the debtor, shall expunge from the records of the court such petition, all the records relating to such petition in particular, and all references to such petition.

''(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act) from making any consumer report (as defined in section 603 of the Fair Credit Reporting Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1529.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill I introduced earlier this year that addresses a very serious and possibly growing problem with respect to abuse of the judicial process by extremists and others.

Under current law, a debtor can voluntarily commence a bankruptcy case or be involuntarily forced into bankruptcy by one or more creditors. Although rarely used, an involuntary bankruptcy petition can be a useful creditor collection tool. It can preserve and maximize assets for the benefit of creditors and provide for the appointment of a bankruptcy trustee to investigate a debtor's financial affairs.

Unfortunately, tax protesters and other extremists are now resorting to filing fraudulent involuntary bankruptcy petitions against public officials and private individuals as yet another weapon in their arsenal of abusive litigation tactics, such as filing false liens.

Last year, for instance, a tax protester filed fraudulent involuntary bankruptcy petitions against 36 local public officials in my district in Wisconsin, including the county sheriff, the circuit judge, and nearly every member of the county board of supervisors. Some of these individuals only discovered that they were the subject of a pending involuntary bankruptcy case after their lines of credit were terminated or they were charged higher interest rates. Worse yet, an involuntary bankruptcy filing, as with most bankruptcy cases, is a matter of public record and can appear on an individual's credit report for up to 10 years even if the involuntary bankruptcy filing is fraudulent and the case is dismissed by the court.

As a result, innocent individuals continue to experience credit problems long after these abusive cases are dismissed. As the Hartford Courant reported last month, it sometimes takes years for corrections to be made to a person's credit report. As a result, the individual may potentially be forced to pay higher interest rates until the proper steps can be taken to fix their credit report.

While abusive bankruptcy filings are not pervasive, they have occurred in various districts across the Nation. According to an informal survey conducted by the Administrative Office of the United States Courts and the National Conference of Bankruptcy Clerks, fraudulent involuntary bankruptcy cases have recently been filed in California, Ohio, Maine, Nebraska, and North Carolina. Organizations such as the Anti-Defamation League and the National District Attorneys Association have expressed concern that this litigation tactic may become even more widespread.

H.R. 1529 responds to the serious problems presented by abusive involuntary bankruptcy filings in two respects:

First, it amends the Bankruptcy Code to require the bankruptcy court, on motion of the debtor, to expunge all records relating to a fraudulent involuntary bankruptcy case from the court's files under certain conditions.

Second, it authorizes the bankruptcy court to prohibit all credit reporting agencies from issuing a consumer report containing any reference to a fraudulent involuntary bankruptcy case where the debtor is an individual and the court has dismissed the petition.

This bill offers great forward but very much-needed relief to innocent victims of abusive involuntary bankruptcy petitions. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1529, the Involuntary Bankruptcy Improvement Act of 2003, a bill which was reported by the Committee on the Judiciary with bipartisan support and without dissent.

I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) for moving so quickly to deal with a real and pernicious problem. This legislation is a good first step in providing bankruptcy courts with congressional guidance in dealing with the phenomenon of malicious and baseless involuntary bankruptcy petitions. It augments the existing powers of the bankruptcy court and makes clear Congress' intent to ensure that the targets of this abuse will have available to them meaningful protection from the lasting effects of meritless involuntary bankruptcy petitions.

An involuntary bankruptcy petition, even if no order for relief is entered, and even if dismissed expeditiously by the court, can inflict lasting damage. Credit reporting agencies generally list the filing of a bankruptcy petition on a person's credit report almost immediately. This can destroy the ability of an individual to obtain credit or to obtain credit on appropriate terms, even if the petition is wholly without merit. For this reason, the dismissal of the case alone does not provide adequate relief.

This problem is a real one. Cases have already been filed for malicious and harassing purposes. Congress must make clear that the bankruptcy system cannot be used to harass and injure people.

Mr. Speaker, there are other changes in the Bankruptcy Code that are equally pressing and equally noncontroversial. Many of these improvements have been unnecessarily held hostage to a larger and far more controversial bankruptcy bill, our family farmers and fishermen, the stability of our financial markets, and the rights of parties whose cases are unnecessarily delayed because of inadequate judicial resources deserve better. I hope we will be able to work with the chairman of the committee to deal as expeditiously with these problems as we have with this one. So I commend the chairman for his efforts, and I urge my colleagues to support the motion to suspend the rules and pass the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1529, the ''Involuntary Bankruptcy Improvement Act of 2003.'' I support this bill to protect innocent individuals from fraudulently filed involuntary petitions for bankruptcy.

Financial struggles and bankruptcies are a continuing problem for many Americans. In January of 2003 alone, there were thousands of Chapter 7 and 11 in my home State of Texas. In Dallas there were 3,208 Chapter 7

bankruptcy filings and 257 Chapter 11 bankruptcy filings. In Fort Worth, there were 3,161 Chapter 7 filings and 210 Chapter 11 filings.

Bankruptcy petitions are designed to satisfy creditors and also provide relief to the debtor. Our bankruptcy laws allow debtors to voluntarily file a petition for relief, and also allow creditors to file involuntary petitions against debtors. Despite the goal of satisfying both debtor and creditor, debtors who go through bankruptcy invariably leave the proceedings with a very poor credit history. This depleted credit can seriously affect the debtor's ability to buy a home or a car, get a loan, or make use of many services we often take for granted.

Unfortunately many have used the involuntary bankruptcy petition, and the negative credit impact that results, as a harassment tool. Many public officials have been the victims of involuntary bankruptcy petitions.

H.R. 1529 amends the Bankruptcy Code to the benefit of individuals who have been the victims of fraudulently filed bankruptcy petitions. Under H.R. 1529, a debtor may file a motion with the court to expunge from the court records the filing of the involuntary bankruptcy petition. The motion will be granted in those bankruptcies where three requirements are met: First, the petition if false or contains any materially false, fictitious, or fraudulent statements; second, if the debtor is an individual; and third, the court dismisses the petition.

Mr. Speaker, I support H.R. 1529 because it grants needed relief to the victims of fraudulently filed bankruptcy petitions. H.R. 1529 imposes modest requirements on the debtor and allows the debtor to easily correct their damaged credit history. I support H.R. 1529 and I urge my colleagues to do the same.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

□ 1245

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1529.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

STANDARDS DEVELOPMENT ORGANIZATION ADVANCEMENT ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Standards Development Organization Advancement Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1993, the Congress amended and renamed the National Cooperative Research Act of 1984 (now known as the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301 et seq.)) by enacting the National Cooperative Production Amendments of 1993 (Public Law 103–42) to encourage the use of collaborative, procompetitive activity in the form of research and production joint ventures that provide adequate disclosure to the antitrust enforcement agencies about the nature and scope of the activity involved.

(2) Subsequently, in 1995, the Congress in enacting the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) recognized the importance of technical standards developed by voluntary consensus standards bodies to our national economy by requiring the use of such standards to the extent practicable by Federal agencies and by encouraging Federal agency representatives to participate in ongoing standards development activities. The Office of Management and Budget on February 18, 1998, revised Circular A–119 to reflect these changes made in law.

(3) Following enactment of the National Technology Transfer and Advancement Act of 1995, technical standards developed or adopted by voluntary consensus standards bodies have replaced thousands of unique Government standards and specifications allowing the national economy to operate in a more unified fashion.

(4) Having the same technical standards used by Federal agencies and by the private sector permits the Government to avoid the cost of developing duplicative Government standards and to more readily use products and components designed for the commercial marketplace, thereby enhancing quality and safety and reducing costs.

(5) Technical standards are written by hundreds of nonprofit voluntary consensus standards bodies in a nonexclusionary fashion, using thousands of volunteers from the private and public sectors, and are developed under the standards development principles set out in Circular Number A–119, as revised February 18, 1998, of the Office of Management and Budget, including principles that require openness, balance, transparency, consensus, and due process. Such principles provide for—

(A) notice to all parties known to be affected by the particular standards development activity,

(B) the opportunity to participate in standards development or modification,

(C) balancing interests so that standards development activities are not dominated by any single group of interested persons,

(D) readily available access to essential information regarding proposed and final standards,

(E) the requirement that substantial agreement be reached on all material points after the consideration of all views and objections, and

(F) the right to express a position, to have it considered, and to appeal an adverse decision.

(6) There are tens of thousands of voluntary consensus standards available for government use. Most of these standards are kept current through interim amendments and interpretations, issuance of addenda, and periodic reaffirmation, revision, or reissuance every 3 to 5 years.

(7) Standards developed by government entities generally are not subject to challenge under the antitrust laws.

(8) Private developers of the technical standards that are used as Government standards are often not similarly protected, leaving such developers vulnerable to being named as codefendants in lawsuits even though the likelihood of their being held liable is remote in most cases, and they generally have limited resources to defend themselves in such lawsuits.

(9) Standards development organizations do not stand to benefit from any antitrust violations that might occur in the voluntary consensus standards development process.

(10) As was the case with respect to research and production joint ventures before the passage of the National Cooperative Research and Production Act of 1993, if relief from the threat of liability under the antitrust laws is not granted to voluntary consensus standards bodies, both regarding the development of new standards and efforts to keep existing standards current, such bodies could be forced to cut back on standards development activities at great financial cost both to the Government and to the national economy.

SEC. 3. DEFINITIONS.

Section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301) is amended—

(1) in subsection (a) by adding at the end the following:

''(7) The term 'standards development activity' means any action taken by a standards development organization for the purpose of developing, promulgating, revising, amending, reissuing, interpreting, or otherwise maintaining a voluntary consensus standard, or using such standard in conformity assessment activities, including actions relating to the intellectual property policies of the standards development organization.

''(8) The term 'standards development organization' means a domestic or international organization that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the Office of Management and Budget Circular Number A–119, as revised February 10, 1998.

''(9) The term 'technical standard' has the meaning given such term in section 12(d)(4) of the National Technology Transfer and Advancement Act of 1995.

''(10) The term 'voluntary consensus standard' has the meaning given such term in Office of Management and Budget Circular Number A–119, as revised February 10, 1998.''; and

(2) by adding at the end the following:

''(c) The term 'standards development activity' excludes the following activities:

''(1) Exchanging information among competitors relating to cost, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required for the purpose of developing or promulgating a voluntary consensus standard, or using such standard in conformity assessment activities.

''(2) Entering into any agreement or engaging in any other conduct that would allocate a market with a competitor.

''(3) Entering into any agreement or conspiracy that would set or restrain prices of any good or service.''.

SEC. 4. RULE OF REASON STANDARD.

Section 3 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4302) is amended by striking ''of any person